

Minutes of Special and Regular Meeting of September 13, 2011
One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION - 6:00 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9(b), Anticipated Litigation, Significant Exposure to Litigation, One Case
- B. Conference with Labor Negotiator, Greg Scoles, pursuant to Government Code Section 54957.6: BPOA

Attended by: Councilmembers Feierbach, Wozniak, Lieberman, Warden, Braunstein, City Manager Scoles, Interim City Attorney Kane, Police Chief Mattei (Item B only), Police Captain DeSmidt (Item B only), Labor Consultant Diana Doughtie (Item B only), Finance Director Fil. City Clerk Cook was excused from attending.

ADJOURNMENT at this time being 7:35 P.M.

Terri Cook
Belmont City Clerk

This meeting was not tape recorded or videotaped

REGULAR MEETING – CALL TO ORDER 7:48 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Lieberman, Wozniak, Warden, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, Interim City Attorney Kane, Finance Director Fil, Police Chief Mattei, Interim Fire Chief Fry, Community Development Director de Melo, Parks and Recreation Director Gervais, Public Works Director Oskoui, Human Resources Director Dino, City Treasurer Violet, City Clerk Cook

REPORT FROM CLOSED SESSION

Interim City Attorney Kane stated that direction was given but no action taken during the Closed Session held earlier.

PLEDGE OF ALLEGIANCE

Led by Police Chief Mattei and Interim Fire Chief Fry in commemoration of the 10th anniversary of 9/11

SPECIAL PRESENTATIONS

Proclamation Honoring Community Service Officer Gayla Olsen on her Retirement

Mayor Feierbach read the Proclamation.

Police Chief Mattei stated that Community Service Officer Olsen has left a legacy with the Police Department. He outlined examples of the various ways in which she supported the department. He noted that she exhibited a strong work ethic and was involved in many projects. He commended her for her assistance with the acid pipe bomb investigation.

Presentation from Star Vista for Juvenile Diversion & Counseling Services for their proposed services

Shannon Asbury, Star Vista, outlined the services provided by Star Vista. She noted that the organization, previously known as Youth and Family Services, has been working with the City of Belmont since 1979. Star Vista is designed to provide diversion for at-risk youth, and offers counseling at a discounted rate. She noted that the City of Belmont has provided funding to the organization in previous years. She described the community benefits, and noted that less than 10 percent of those who complete the program re-offend.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Andrew Ness, San Francisco resident, stated that he is a bicycle commuter. He noted that the two-hour parking zone on Masonic Avenue within the bicycle lane is illegal, dangerous, and a liability, and requested immediate abatement.

Public Works Director Oskoui explained that the Parking and Traffic Safety Committee would be reviewing this matter before the end of September.

Kathleen Beasley, Belmont Library Branch Manager, described new activities available for elementary school-age students, including a tutoring program, crafts, and a science club.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Feierbach noted that some City staff members would be participating in the American Heart Association Heart Walk. She announced the Fall Creek Cleanup event to be held in Belmont, and that there would be a compost giveaway on October 8.

Mayor Feierbach announced that tonight's meeting would be adjourned in memory of Robert Blake, who served for many years as Belmont's representative to the Mosquito Abatement and Vector Control District.

AGENDA AMENDMENTS

Mayor Feierbach requested the removal of Consent Agenda Item 4-G (Resolution Approving the

Employment Agreement Between the City of Belmont and Scott M. Rennie as City Attorney) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Councilmember Warden thanked staff for improvements made to the agreement with Peninsula Conflict Resolution Center.

Approval of Minutes of Special and Regular Meeting of August 9, 2011 (revised)

Motion to Receive Monthly Financial Reports

Approval of Resolution 10412 Authorizing the City Manager to Renew the Contract with the Peninsula Conflict Resolution Center (PCRC) for Fiscal Year 2011-2012 for an Amount not to Exceed \$12,000

Approval of Resolution 10413 Approving New Job Classification and Salary Range for Van Driver in the Parks and Recreation Department

Approval of Resolution 10414 Honoring Community Service Officer Gayla Olsen for her fifteen years of service.

Approval of Resolution 10415 Authorizing Amendment No. 1 to Professional Services Agreement with MuniServices, LLC to Perform a Review of the City's Exclusive Franchise Solid Waste Hauler (Allied Waste) Franchise Payments for an Amount Not to Exceed \$8,750

Approval of Resolution 10416 Approving the Location of City Street Lights to be Retrofitted under the Energy Efficiency and Conservation Block Grant Program

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Warden, the Consent Agenda was unanimously approved, as amended, by a show of hands (Councilmember Braunstein abstained on approval of the minutes since he was absent for the meeting of August 9, 2011).

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Approving the Employment Agreement Between the City of Belmont and Scott M. Rennie as City Attorney

Mayor Feierbach introduced Scott Rennie, Belmont's new City Attorney. She noted that Belmont has never had an in-house City Attorney before.

Mr. Rennie thanked the City Council for the opportunity to serve the City of Belmont. He explained that he has been with the City of Fremont for the past ten years, and previous to that he was in private practice and was part of a trial team in the City of San Francisco. He noted that he has a degree in architecture and serves as a Planning Commissioner in his home town.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Wozniak, Resolution 10417 Approving the Employment Agreement Between the City of Belmont and Scott M. Rennie as City Attorney was unanimously approved by a show of hands.

HEARINGS

Appeal of the Planning Commission Decision Approving an Amended Conditional Use Permit for the Koret Athletic Field for Notre Dame de Namur University (NDNU) at 1500 Ralston Avenue (requires disclosure of ex parte communications)

Councilmember Lieberman stated that because he lives within 300 feet of the Notre Dame de Namur University (NDNU) property, he would need to recuse himself from this matter. He stepped off the dais and out of the room.

Mayor Feierbach stated that her ex parte communications included the Seelys, Risa Horowitz, Greg Snow and Tom Snider.

Councilmember Warden stated that he responded to emails received regarding this matter, and spoke with the Seelys, Risa Horowitz, and Tom Snider.

Councilmember Wozniak stated that she spoke with Tom Snider, Greg Snow, the Seelys, the Hughes, other neighbors on her street, and she responded to emails received.

Councilmember Braunstein stated that he spoke to Tom Snider and responded to emails received.

Community Development Director de Melo outlined the Planning Commission's review and approval process for this application. He noted that a categorical exemption from full environmental review applies, since the amendment to the conditional use permit (CUP) represents uses consistent with the existing CUP. No additional environmental impact is anticipated with the amendment, and the 2005 CUP is not germane to this application. He explained that the Planning Commission did not abuse its discretion in granting the approval to amend the CUP.

Mayor Feierbach opened the Public Hearing.

Evelyn Seely (Appellant) explained that she appealed the Planning Commission's approval of this application based on the lack of environmental review, and that the proposed use will not protect the neighbors from impact of noise. She noted that she recognizes the need for field space for youths, and for the need to upgrade the Belmont Sports Complex, and she explained that the appeal is not directed against youth soccer. She stated that the primary issue is one of noise.

Mrs. Seely noted that Koret Field was reconstructed in 2005 with no environmental review. She cited Section 15300.2(c) of the CEQA (California Environmental Quality Act) which outlines when an environmental review is required. She noted that geography in the area causes noise to carry, which is an unusual circumstance, and a cursory environmental review is not sufficient. She stated that the noise ordinance is flawed as it focuses solely on decibel levels. She cited the provision in the existing noise ordinance which states that noise should not be allowed if reasonable people find it loud or annoying.

Mrs. Seely stated that the use of Koret Field by youth sports will affect neighbors. She noted that the allowed hours of operation should not mean that the field should be used every minute. She cited the need to provide game schedules and to define terms such as practice and youth. She stated that the existing CUP (Conditional Use Permit) is not being properly enforced. She requested that if the Council upholds the Planning Commission's decision, the two provisions that were removed by the Commission should be reinserted into the conditions of approval, which addressed the prohibition of the installation of lights, and any future CUP modification should be reviewed by the City Council.

Tom Snider, Belmont United Soccer Club (co-Applicant), thanked the City Council for its time and effort regarding Koret Field. He noted that this is a contentious issue. He recommended that the appeal be denied because the use by Belmont youth sports is the only amendment to the CUP. No change in currently-permitted hours is proposed. He noted that Notre Dame de Namur (NDNU) is not the applicant, and it is providing the use of the field at no charge to the youth sports organizations. He stated that the use of Koret by the youth sports groups will serve the needs of a significant number of Belmont residents. He also stated that any other proposed amendments to the 2005 CUP will be rejected by NDNU. He cited the need for high quality field space for youth sports.

Mr. Snider outlined the goals cited in Belmont's General Plan, Vision Statement, and Parks and Open Space Master Plan. He noted that some neighbors who live in significant proximity to Koret Field are in support of this proposed use. He explained that youth sports do not use bullhorns or loud speakers, and the groups are willing to meet regularly with neighbors to address concerns.

Mr. Snider stated that NDNU is generous in its offer to the youth sports groups. He recommended that the City Council make good on its public statements and comments regarding the use of Koret Field by youth sports, and deny the appeal. He noted that Koret Field is a community asset.

Mayor Feierbach opened the Public Hearing.

Matt Covington, Belmont resident, recommended that the City Council overturn the Planning Commission decision. He concurs that there is a need for field space for youth sports, but he cited the impact on the ability of the neighbors to use their backyards. He stated that a biased interpretation of the CUP was made, and there will be an increase in the amount of games being played, resulting in an increase in noise. He noted that the existing request is one that was asked previously.

Cindi Wheeler, Belmont resident, concurred with the finding that the requested use is categorically exempt from environmental review. She noted that NDNU would be allowed to use the field during these hours as provided in the current CUP. She commented that there is a very small group causing turmoil, and that the larger community should be considered.

Cora Zimmerman, Belmont resident, expressed support for the appeal. She stated that parents and children are being used. She expressed concern regarding noise, and noted that no remedies are

proposed. She stated that the current CUP is flawed.

Margaret Davis, Belmont resident, stated that the Planning Commission negated key provisions of the amended CUP previously approved by the City Council. She noted that NDNU has not utilized all allowed hours, which will likely be used by youth sports. She stated that the 2005 CUP is flawed and should not be amended in a piecemeal fashion. She suggested that if the CUP request is approved, the use of the field should be for games only.

Ray Davis, Belmont resident, stated that the field was approved in 2005 with no environmental review. He concurred that NDNU has not used all permitted hours. He noted that the California Civil Code and Belmont's noise ordinance provide for peaceful surroundings. He stated that NDNU has done little to abate noise problems, and more soundproofing is needed. He expressed sympathy for the youth groups.

Richard Hughes, Belmont resident, stated that trees have been removed which has resulted in an increased level of noise. He also stated that the City Council's previous CUP amendment was fair. There is a need for blackout days and shorter hours of use. He recommended a one-year review and the inclusion of a provision prohibiting lights.

Community Development Director de Melo clarified that the one-year review provision is included in the CUP amendment.

Julie Hughes, Belmont resident, expressed concern regarding the Belmont Sports Complex, and noted that it should have been improved to alleviate the need to use Koret Field. She stated that potential home buyers in the neighborhood have expressed concerns regarding noise. She supports a one-year review.

Manoush Ghajar, Belmont United Soccer Club, expressed support for the CUP amendment. He noted that 1200 families will be served. He explained that participation in youth sports is growing, and noise is not an issue. The field hours are allowed in the existing CUP, and an increase in use by youth sports does not represent a large number of hours.

Gordon Seely, representing Residents for a Tranquil Community, stated that Koret Field noise is a result of a flawed 2005 CUP, and that an EIR should have been performed at that time. He noted that the parabolic structure in the area results in unique noise problems, and for that reason staff erred in its recommendation that an EIR was not needed. He stated that the City Council's amended CUP in early 2011 was rejected by NDNU, and that only three Planning Commission members approved the current application. He expressed concern regarding the removal of conditions related to the prohibition of lights and future City Council review of any additional CUP amendments. He suggested that further clarification is needed to define game, practice, and youth sports camp. He expressed concern that the judgment of success of the amended CUP after one year remains with staff. He recommended that the use of the field by other groups not be approved until terms in the

CUP are properly defined and the CUP is fairly administered. He also requested that a meeting be set up to further refine the previously-cited definitions. He commented that the CUP should be fair to all concerned.

Rich Bortoli, Parks and Recreation Commissioner/Sports Advisory Council, stated that the need to use Koret Field is important due to the school district's plans for building expansion on their campuses. He noted that the Sports Complex is years away from turfing, and there is no cost to the City for the use of Koret Field. Traffic is not likely an issue, as Ralston Avenue will be used regardless of where the games are played. He stated that hearing kids playing is enjoyable. He noted that AYSO used the former Koret Field. He cited little opposition to this application. He stated there will not likely be many games played at Koret, as there are few attractive hours. He commented that kids need a safe place to play.

Kevin Sullivan, Belmont resident, expressed support for all of the Planning Commission's decisions regarding Koret Field, and he did not support the CUP as previously amended by the City Council. He questions how many people will be impacted by noise, and to what degree. He noted that vehicles make more noise than what comes from the field. He described recent noise observations in the neighborhood, which included vehicles, machinery, and kids playing. He stated there is no significant impact by the use of the field by kids.

Eric Dentler, Belmont resident, expressed support for the amended CUP. He described his involvement as a member of the Parks and Open Space task force, which addressed the need for more field space. He noted that the noise of kids playing is better than other types of noise. He also noted that even if the Sports Complex were turfed, there would not be enough field space.

Warren Lieberman, Belmont resident, noted that the CUP amendment was brought forward by BUSC and AYSO, not NDNU. He expressed gratitude to NDNU for offering the field space. He recommended that the City Council not impose restrictions on NDNU for the addition of youth sports. He stated he does not wish to minimize the concerns of neighbors. He suggested that if sound is an issue on sports fields, it should be addressed throughout the City. He supports the finding that this application is exempt from CEQA review.

(At this time, the public comment period ended.)

Evelyn Seely, Appellant, expressed concerns regarding the removal of the two conditions related to the prohibition of lights and future review by the City Council for any subsequent amendments. She also noted that noise is the main issue for which relief is needed. She stated that the neighborhood has changed, and the 2005 CUP is still a problem.

Community Development Director de Melo clarified two conditions of approval were removed by the Planning Commission related to the prohibition of lights and subsequent CUP amendment review to be addressed by the City Council rather than the Planning Commission. He noted that the one-year

review is still a condition, and he clarified that the City Council can always request a hearing to review any future amendments. He noted that if NDNU wants to add lights, public review of that request would be required.

In response to Councilmember Warden, Tom Snider (BUSC) outlined the hours of operation of the soccer groups, as well as the dates of the various seasons for soccer. He clarified that soccer groups play during the school year only, and not on holidays. He outlined the time involved with a game, including warm-up and half-time.

Councilmember Warden noted that the weekend hours permitted in the 2005 CUP is 11:00 a.m. to 5:00 p.m. Community Development Director de Melo clarified that those hours apply to the use of the field by the soccer groups.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Braunstein, the Public Hearing was unanimously closed by a show of hands (4-0 Lieberman recused).

Councilmember Wozniak concurred that an EIR is not needed for this application. She supports a one-year trial of the use of the field by soccer. She expressed the need to respect the neighbors' issues, and noted that this is a unique situation. She acknowledged the youth sports leaders' willingness to address issues and concerns. She concurred that definitions should be further clarified. She stated that the Sports Complex needs to be improved but this will not happen soon as it needs funds to do so.

Councilmember Braunstein stated that Notre Dame had the right to request an amendment to the CUP and to reject the modified version of that amendment. He noted that the sports groups had the right to apply for the subsequent amendment, and that the citizens had the right to appeal. He noted that the task force was unable to come up with a solution to issues raised. He concurs that this application is categorically exempt, as the allowed time for use is not being expanded. He stated he has visited homes and has experienced noise. He noted there is good and bad noise, and people define this differently. He expressed support for the CUP amendment.

Councilmember Warden concurred that the 2005 CUP is flawed, which has resulted in a change in the amount of noise. He stated that the City Council is not likely to repeal the CUP. He stated that use by the youth sports is not likely to generate the same amount of noise as collegiate use. He noted there have not been noise complaints from other fields used by youth sports. He expressed frustration with the lack of ability to address issues. He stated he will uphold the Planning Commission's decision. He is not concerned regarding the issue of the removal of condition regarding the prohibition of lights, and noted that the standard process is for the Planning Commission to review any future CUP modifications. He stated that he would exercise the Council call-up procedure if neighbors opposed any future amendments.

Mayor Feierbach noted that this is a neighbor-to-neighbor issue and not one against a developer. She

expressed support for the sports groups' offer to meet regularly with the neighbors, and suggested that NDNU do the same. She does not wish to marginalize neighbor concerns. She described her experience at the opening day for soccer. She noted that the elementary school fields will be impacted by construction. She supports the Planning Commission's decision.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Warden, Resolution 10418 Affirming the Planning Commission's Decision to Approve A Conditional Use Permit Amendment for the Koret Athletic Field for Notre Dame De Namur University NDNU) at 1500 Ralston Avenue Appl.No. PA2011-0024) was unanimously approved by a show of hands (4-0, Lieberman recused).

At this time, being 9:45 P.M., Councilmember Lieberman returned to the dais.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Discussion and Direction Regarding Resolutions to be considered at Annual League of California Cities Conference (held over from 8/23/11)

City Manager Scoles noted that Councilmember Braunstein was the appointed delegate to the League of California Cities Annual Conference, and the City Council requested this item be agendaized to provide direction regarding the resolutions to be considered at the business meeting of the conference. Councilmember Braunstein stated that he was looking for direction.

Councilmember Warden expressed support for Councilmember Braunstein voting in the manner he thinks would best serve Belmont.

Councilmember Lieberman expressed concern regarding the resolution which addresses tort reform. He noted that it could result in a statewide proposition that would provide that the loser pays the cost of a lawsuit as a way to alleviate frivolous lawsuits. He noted that many lawsuits are not frivolous. He stated that he would not support the resolution as being too onerous.

Discussion ensued regarding the proposed resolution regarding bullying. Councilmember Braunstein noted that the City Council previously approved the Bill of Rights for Children, and this proposed resolution addresses one of the topics outlined in that Bill.

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Wozniak reported that the draft bike plan and PG&E were topics of discussion at the recent C/CAG meeting.

Councilmember Lieberman stated that he attended the final Belmont-San Carlos Fire Board meeting prior to the termination date of September 30th. He noted that the Board will likely need to continue meeting for several years to address legacy costs.

Councilmember Braunstein stated that he would be unable to attend the next OES (Office of Emergency Services) meeting. Councilmember Warden stated that he may be available to attend on his behalf.

Councilmember Braunstein also announced that he has been asked to sit on a subcommittee of the HEART (Housing Endowment and Regional Trust) group.

Verbal Report from City Manager

City Manager Scoles stated that he would be attending the League of California Cities Conference. He noted that staff was planning a badge-pinning ceremony for the new firefighters. He announced that a number of staff members would be involved in the American Heart Association's upcoming Heart Walk, and the coastal cleanup event was being held on September 17th. He provided an update on the street project at Sixth and O'Neill Avenues, and that things have been worked out with PG&E regarding the work they need to do. He stated that staff is communicating with the neighbors to keep them updated. He noted that work continues in City Hall on the renovation in preparation for the new fire department.

City Manager Scoles stated that the new bike bridge has experienced some graffiti issues, and details are still being worked out regarding the installation of the fencing. He clarified that Cal Trans has to approve the work plan for its installation.

Mayor Feierbach stated that video cameras might be needed for the bike bridge.

Councilmember Lieberman stated that PG&E has acknowledged its missteps regarding the Sixth and O'Neill project.

PUBLIC COMMENTS AND ANNOUNCEMENTS

George Burgess, Belmont Chamber of Commerce, provided an update on a Shared Services meeting that was attended by approximately 50 people. He noted that he was invited to attend by the City Manager. He noted that attendees agreed with the need for shared services. He indicated that the benefit is cost efficiency, and that concerns were expressed regarding the maintenance of vision and core values of individual cities. He stated that retirement benefit plans need to be modified.

ADJOURNMENT at this time, being 10:20 P.M. in memory of Robert Blake.

Terri Cook
City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 797